HIGH COURT OF UTTARANCHAL AT NAINITAL
ORIGINAL JURISDICTION

Dated Nainital the 23rd March, 2006

Bail Application No. 126 of 2006

Order on the bail application of the accused.

CRIMINAL SIDE

Madhava Nand Joshi
S/o Late Sri Bachi Ram Joshi
R/o Village Arari,
Post Officer-Berinag
District – Pithoragarh ….Applicant

Versus

State of Uttaranchal ….Opposite Party

In Case Crime No. 126 of 2005
U/s 302 and 201 I.P.C.
Police Station –Berinag
District – Pithoragarh

With
Bail Application No. 164 of 2006

Ganesh Dutt Joshi
S/o Sri Tikaram Joshi
R/o Village Eararhi
Police Station – Berinag
District – Pithoragarh …….Applicant

Versus

State of Uttaranchal ……Opposite Party

In Case Crime No. 126 of 2005
U/s 302 and 201 I.P.C.
Police Station –Berinag
District – Pithoragarh

Hon'ble J.C.S. Rawat, J.

Heard Sri Pushpa Joshi/Shri Vivek Shukla-learned counsel for the applicants, learned AGA for the State and perused the record.

It was contended that the deceased was missing from his village from 5th May, 2005 and the report was lodged on 11th May, 2005 and body of the deceased was recovered on 11th May, 2005. It was further contended that there was last seen evidence against the accused-applicants. The state has annexed the statement recorded u/s 161 Cr.P.C. of Smt. Tara Devi and Santosh Kumar who have stated that they have seen the applicants beating the deceased. When they asked the applicants what they are doing, they sated that the deceased has consumed liquor and he is abusing them so they

have taken him to Chokari. Thereafter, the witnesses have left from the places. It was further contended that the witnesses had not seen to kill or to commit murder of the deceased. If the deceased was missing from 5th May, 2005, it would have been the obvious conduct of these witnesses to state the fact to his relatives and in the F.I.R. It was further contended that delay in recording the statement reveals that this is an afterthought theory. There is no other evidence except the evidence of last seen. It was further contended that the complete chain of evidence has not been established.

Considering the facts and circumstance of the case in totality, I am of the view that it is a fit case for bail.

Let the applicant-accused, Ganesh Dutt Joshi and Madhava Nand Joshi be released on bail on furnishing each a personal bond and two sureties each in the like amount to the satisfaction of the CJM concerned.

(J.C.S. Rawat, J.)

Dt: 23.03.2006
Shiv